

MATTER OF AIRCRAFT N-3281-Z

In Fine Proceedings

SPM-10/2.81

Decided by Board October 29, 1969

- (1) It is no defense to imposition of fine on aircraft's owner for violation of section 239 of the Immigration and Nationality Act that the owner of the aircraft may not have been the pilot of the plane at the time the violation occurred, since the statute provides that the penalty shall be a lien upon the aircraft.
- (2) Mitigation of fine is not warranted since appellant was uncooperative with Service officers throughout and after the aircraft had been properly made the subject of seizure, despite notice thereof and instructions not to interfere with the seizure proceedings, appellant took the plane and has been using it for his private purposes.

IN RE: Piper Cub Aircraft N-3281-Z, which arrived in the United States at an unknown time and place from Canada on or about January 27, 1969. Person involved: Mike Meier—owner.

BASIS FOR FINE: Act of 1952—Section 239 (8 U.S.C. 1229), and 8 CFR 239.2.

This appeal is directed to an administrative penalty of \$500 which the Acting District Director at St. Paul has ordered imposed on the aircraft's owner for a violation of the statute and the related regulations, as follows: failure to land at a designated airport; failure to give advance notice of arrival; and discharging or permitting departure of passengers or crew without permission of an immigration officer. The appeal will be dismissed.

A Royal Canadian Mounted Police report dated January 28, 1969, sets forth that late the preceding afternoon a Canadian citizen named Collins telephonically informed the reporter that he had just seen an aircraft bearing the number "N-3281-Z," an American Certificate of Registration number, make a landing in Canada while engaged in illegally shooting foxes. Appropriate federal records show Mike Meier, a United States citizen, to be its registered owner, and he admits that he is the owner of the aircraft.